

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

679400

PHELAN HALLINAN DIAMOND & JONES, PC

400 Fellowship Road, Suite 100

Mt. Laurel, NJ 08054

856-813-5500

Attorneys for THE BANK OF NEW YORK MELLON FKA THE
BANK OF NEW YORK, AS TRUSTEE (CWALT 2005-01CB)

In Re:

PATRICIA KENNEDY A/K/A PATRICIA ANNE KENNEDY
A/K/A PATRICIA BULL KENNEDY
MICHAEL KENNEDY A/K/A MICHAEL JAMES KENNEDY



Order Filed on October 19, 2016
by Clerk
U.S. Bankruptcy Court
District of New Jersey

Case No: 14-29093 - ABA

Hearing Date: August 30, 2016

Judge: Andrew B. Altenburg, Jr

Recommended Local Form:

☐

Followed


☒

Modified

ORDER RESOLVING MOTION TO VACATE STAY AND/OR MOTION TO DISMISS WITH CONDITIONS

The relief set forth on the following pages, numbered two (2) and three (3) is hereby **ORDERED**.

DATED: October 19, 2016



Honorable Andrew B. Altenburg, Jr.
United States Bankruptcy Court

Applicant: THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK,
AS TRUSTEE (CWALT 2005-01CB)

Applicant's Counsel: Phelan Hallinan Diamond & Jones, PC

Debtor's Counsel: LAW OFFICE OF JOEL R SPIVACK, Esquire

Property Involved ("Collateral"): 1302 SYLVANIA AVENUE, CINNAMINSON, NJ 08077-2715

Relief sought: ☒ Motion for relief from the automatic stay
☐ Motion to dismiss
☐ Motion for prospective relief to prevent imposition of automatic stay against the collateral by debtor's future bankruptcy filings

For good cause shown, it is **ORDERED** that Applicant's Motion is resolved, subject to the following conditions:

1. Status of post-petition arrearages:

☒ The Debtor is overdue for 6 months, from 4/1/2016 to 9/1/2016.

☒ The Debtor is overdue for 6 payments at \$2,175.76 per month.

☒ Applicant suspense funds in the amount of \$1,611.66.

Total Arrearages Due \$11,442.90.

2. Debtor must cure all post-petition arrearages, as follows:

☐ Immediate payment shall be made in the amount of \$. Payment shall be made no later than ____.

☒ Beginning on 10/1/2016, regular monthly mortgage payments shall continue to be made.

☒ Beginning on 10/1/2016, additional monthly cure payments shall be made in the amount of \$1907.15 for 6 months.

3. Payments to the Secured Creditor shall be made to the following address(es):

☐ Immediate payment:

☒ Regular Monthly payment: Bayview Loan Servicing
4425 Ponce De Leon BLVD
5th Floor
Attn: Cash Dept
Coral Gables, FL 33146

☒ Monthly cure payment: See above

4. In the event of Default:

☒ Should the Debtors fail to make any of the above captioned payments, or if any regular monthly mortgage payment commencing after the cure of the post petition delinquency is more than thirty (30) days late, counsel shall file a Certification of Default with the Court, a copy of the Certification shall be sent to the Chapter 13 Trustee, the Debtors, and Debtors' attorney and the court shall enter an Order granting relief from the Automatic Stay waiving FED.R. Bankr P 3002.1

☒ In the event the Debtors converts to a Chapter 7 during the pendency of this bankruptcy case, the Debtors shall cure all arrears within ten (10) days from the date of conversion in order to bring the loan contractually current. Should the Debtors fail to bring the loan contractually current, counsel shall file a Certification of Default with the Court, a copy of the Certification shall be sent to the Chapter 13 Trustee, the Debtors, and Debtors' attorney and the court shall enter an Order granting relief from the Automatic Stay waiving FED.R. Bankr P 3002.1

☒ This agreed order survives any loan modification agreed to and executed during the instant bankruptcy. If any regular mortgage payment due after the execution of a loan modification is more than thirty (30) days late, counsel shall file a Certification of Default with the Court, a copy of the Certification shall be sent to the Chapter 13 Trustee, the Debtors, and Debtors' attorney and the court shall enter an Order granting relief from the Automatic Stay waiving FED.R. Bankr P 3002.1

5. Award of Attorneys' Fees:

☒ Attorneys' fees are not awarded.

6. This Agreed Order survives any loan modification agreed to and executed during the instant bankruptcy.

Certificate of Notice Page 4 of 4
United States Bankruptcy Court
District of New Jersey

In re:
Michael James Kennedy
Patricia Anne Kennedy
Debtors

Case No. 14-29093-ABA
Chapter 13

CERTIFICATE OF NOTICE

District/off: 0312-1

User: admin
Form ID: pdf903

Page 1 of 1
Total Noticed: 1

Date Rcvd: Oct 19, 2016

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Oct 21, 2016.

db/jdb +Michael James Kennedy, Patricia Anne Kennedy, 1302 Sylvania Avenue,
Cinnaminson, NJ 08077-2715

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE. TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Oct 21, 2016

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on October 19, 2016 at the address(es) listed below:

Andrew L. Spivack on behalf of Creditor THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK,
AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWALT, INC., ALTERNATIVE LOAN TRUST 2005-1CB, MORTGAGE
PASS-THROUGH CERTIFICATES, SERIES 2005-1CB nj.bkecf@fedphe.com
Andrew M. Lubin on behalf of Creditor CitiMortgage, Inc. bkecf@milsteadlaw.com,
alubin@milsteadlaw.com
Isabel C. Balboa ecfmil@standingtrustee.com, summarymail@standingtrustee.com
Isabel C. Balboa on behalf of Trustee Isabel C. Balboa ecfmil@standingtrustee.com,
summarymail@standingtrustee.com
James Patrick Shay on behalf of Creditor THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK,
AS TRUSTEE (CWALT 2005-01CB) james.shay@phelanhallinan.com
Joel R. Spivack on behalf of Debtor Michael James Kennedy joel@spivacklaw.com,
admin@spivacklaw.com
Joel R. Spivack on behalf of Joint Debtor Patricia Anne Kennedy joel@spivacklaw.com,
admin@spivacklaw.com
John Philip Schneider on behalf of Creditor BAYVIEW LOAN SERVICING, LLC, as a servicer for
The Bank of New York Mellon fka The Bank of New York, as Trustee for the Certificateholders of
CWALT, Inc., Alternative Loan Trust 2005-1CB, Mortgage Pas nj.bkecf@fedphe.com
John Philip Schneider on behalf of Creditor BAYVIEW LOAN SERVICING, LLC, SERVICER FOR THE
BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWALT,
INC., ALTERNATIVE LOAN TRUST 2005-1CB, MORTGAGE PASS-THR nj.bkecf@fedphe.com
Joshua I. Goldman on behalf of Creditor THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK,
AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWALT, INC., ALTERNATIVE LOAN TRUST 2005-1CB, MORTGAGE
PASS-THROUGH CERTIFICATES, SERIES 2005-1CB jgoldman@kmlawgroup.com, bkggroup@kmlawgroup.com
TOTAL: 10